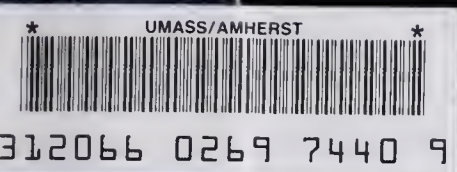


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AGENDA:

ELDERLY

April 1, 1995

To the Citizens of Massachusetts,

Today, there are more than thirty million people over the age of 65 living in America. Thirty million Americans who have reached what should be the "golden age" of retirement. Yet for many, those years are anything but golden, and are instead filled with concerns over health care issues, vulnerability to crime or abuse, and the loss of independence.

As Attorney General, I have made it a priority for my administration to protect the rights of our older citizens. My Strategy includes an aggressive combination of both prosecution and prevention. Not only do we prosecute those who steal from, abuse, or assault older Americans, we have also set forth a comprehensive plan of prevention which educates consumers, providers, and protectors of the special needs and concerns of our elders.

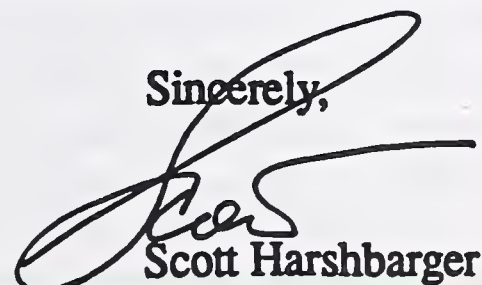
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As part of our prevention plan, we have established partnerships with social service providers, law enforcement, and industry representatives. These partnerships have proven to be effective educational tools and have been lauded as national prevention models for the rest of the country to follow.

This issue of the AGenda will update you on our progress -- the new regulations for residents of long term care facilities, the creation of training tools for elder care professionals, case summaries, and new legislative initiatives. You will also find tips on home security and the use of ATM cards. I hope you find this issue informative and enjoyable.

Sincerely,



Scott Harshbarger

AG HARSHBARGER DELIVERS ADDRESS AT LONG TERM CARE AND THE LAW CONFERENCE

In January, Attorney General Scott Harshbarger delivered the keynote address at the 20th Annual Long Term Care and the Law Conference sponsored by the National Health Lawyers Association (NHLA) in New Orleans. Highlighting the Medicaid Fraud Control Unit initiatives in combating abuse, neglect and mistreatment in Massachusetts long term or extended care facilities, Harshbarger addressed nearly 600 health care lawyers and NHLA members from across the country.

Attorney General Harshbarger's Medicaid Fraud Control Unit has been recognized, along with the Massachusetts Extended Care Foundation, for its innovative national model to address education and prevention of abuse, neglect, and mistreatment of elders residing in Massachusetts nursing homes. The following are excerpts from the Attorney General's speech.

.....

"In a four year period, my Medicaid Fraud Control Unit (MFCU) has recovered nearly \$22 million through criminal and civil enforcement actions against a variety of health care providers including physicians, dentists, hospitals, long term care facility owners, and medical equipment and transportation companies... The MFCU has gained national recognition for

its aggressive enforcement of state anti-kickback laws in the area of pharmaceutical marketing, volume discount programs and illegal rebates... The MFCU also conducts scores of investigations of abuse complaints each year and, when appropriate, prosecutes. We prosecuted more than 35 cases of abuse, neglect, and mistreatment over a three-year period. That's a five-fold increase from previous years.

"Our expertise has enabled us to build bridges with the long term care community, and has allowed us to move our focus beyond protection and begin to focus on prevention of the victimization of the elderly... We have found that the key to prevention is the formation of partnerships between social service providers, law enforcement and industry representatives. Because of hard work on both sides, we are learning to fight together to improve the quality of life for our elders... Our working partnership with the 475 nursing homes in Massachusetts has allowed us to provide training sessions to more than 1,200 nursing home staff. Together we've produced a video being used by many nursing homes to educate their employees and we've established a working group formulating protocols to be used in prosecuting neglect and abuse cases.

"I was proud to announce last year new regulations under our state Consumer Protection Act which rate among the most

(Continued from previous page...)

comprehensive and protective regulations

of any state in the nation... These regulations give meaning to the principle that people who reside in nursing homes are not "patients" in "institutions" marking time until hospitalization or death, but are "residents" who have a right to regard where they live as "home" and be treated with respect and dignity... Our new regulations include the broadening of residents' rights, reforms which give residents more say about treatment and more access to information, and a firm commitment to equal treatment among medicaid and private paying residents.

"While prosecutions and regulations designed to improve quality of life and enforcing respect for rights, humanity and dignity are important, only through cooperation and coordination with industry leaders, regulators and prosecutors can we hope to provide a better standard and quality of life for our elders."

New Regulations for Elders in Long Term Care Facilities

In October of 1994, Attorney General Harshbarger formally released new regulations governing the rights of elder residents in long term care facilities.

Among the most comprehensive and protective in the nation, these regulations replace all existing regulations governing nursing homes in Massachusetts.

The new regulations expand resident rights in many areas, including protection of privacy and personal matters, control over personal finances and belongings, access to medical records, and notification of transfer and discharge.

Specific examples include the right to:

- * send and receive unopened mail;
- * receive 48 hours advance notice of roommate transfers;
- * present grievances free from interference, coercion or reprisal.

Married residents living in the same facility also have the right to reside in the same room.

In addition to the new regulations, the Attorney General also announced a joint effort with the state's nursing home industry to create a statewide hotline to assist elder applicants with seeking long term care placements.

A series of comprehensive training events are being held to educate elders about their new rights and inform facility owners and operators about their new obligations.

ELDERLY PROTECTION PROJECT UPDATE

● In conjunction with the Executive Office of Elder Affairs and the Massachusetts Bankers Association, the Elderly Protection Project will be training financial institutions' personnel on how to recognize, report, and respond to elder financial exploitation. Materials are being developed and reviewed by a diverse, statewide group, and training will begin in May.

● The Elderly Protection Project recently hosted a seminar on issues concerning elder drivers. The seminar focused on how to sensitively communicate with older drivers and also discussed programs available to ensure elder drivers operate their cars safely.

● A police training video which acquaints officers with the "Safe Return Program" for victims of Alzheimer's disease has been completed and is scheduled for a late April release. The video, which will provide tips on how to locate and communicate with Alzheimer's wanderers, will go out to every police department in Massachusetts, all Attorneys General across the nation, and police training and elder protective service agencies in all 50 states.

ELDER GUARDIANSHIP CONFERENCE

IF YOU WOULD LIKE TO KNOW MORE ABOUT APPOINTING OR BECOMING A GUARDIAN, YOU WILL NOT WANT TO MISS THIS INFORMATIVE MAY CONFERENCE.

TOPICS TO INCLUDE:

- ✍ CAPACITY AND INCAPACITY ISSUES
- ✍ DUTIES, RESPONSIBILITIES AND AUTHORITY OF GUARDIANS
- ✍ ALTERNATIVES TO GUARDIANSHIP

FOR FURTHER INFORMATION, INCLUDING DATE, TIME AND LOCATION, PLEASE CONTACT:

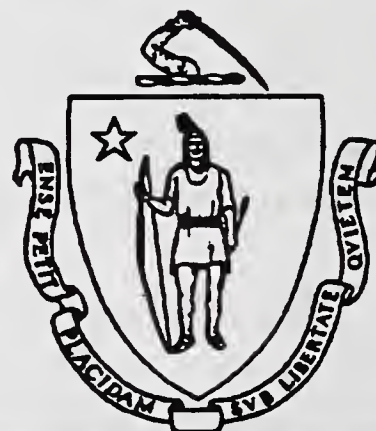
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CRIME PREVENTION AT HOME**Safety tips everyone should follow...****1. Lock up!**

- * 30 to 50% of residential burglaries happen because someone did not lock a door or window, or may have even left it open.

2. Doors

- * Install deadbolt locks.
- * Buy locks you can easily manipulate.
- * Chain locks should be supplemented with additional locks.
- * Do not attach a name or address tag to key rings.
- * Use a peephole. A peephole will help you identify someone before opening the door.
- * Have adequate lighting at all exterior entrances.

3. Windows

- * Remember to close and lock your windows -- even if you are leaving for only a short time. Special window locks are available for windows which are easily accessible from the ground, the roof or fire escapes.
- * At night, keep enough curtains and blinds drawn so that rooms will not be visible from the street.
- * Do not leave money, a purse, or a wallet in view from a window.

4. Garages

- * If your garage is attached to your home, the connecting entrance should be as secure as the front and back doors. A solid door with a deadbolt lock is secure.

5. Dogs as Alarm Systems

- * A dog is one of the best alarm systems you can buy. Even a small dog can provide excellent protection and can be there when you are away. If a dog is a practical option for you, buy one that is alert and makes a lot of noise when someone approaches.

6. Apartments

- * If you live in an apartment, you may be able to implement some of these suggestions. You may also want to talk to the manager about improving the security in your building. Getting several tenants together to request security measures can be very effective.

7. Protecting Valuables

- * Keep large amounts of money and securities at a bank, not at home.
- * Have any social security or pension check deposited directly into your bank account. (Continued ☞)

(Crime Prevention Continued...)

8. A Neighborhood Security Watch

- * Get to know your neighbors. Widespread prevention efforts as a group will make your individual efforts even more effective in deterring burglary, theft, vandalism and robbery. Watch groups work equally well in an apartment building as they do in an area of family homes.

9. Phone Tricks

- * If you receive "wrong number" calls, hang-up calls, late night calls from strangers, or other oddities, call the police and ask for their advice.
- * Do not give personal information to strangers over the telephone. Never give out your name, address, marital status or anything to indicate that you are alone.
- * Never give out credit card numbers or other financial information. While there are legitimate phone surveys, it is better not to participate than risk giving information to a scam artist. If census takers come to your door, ask to see credentials before opening the door. If you are uncomfortable, ask them to leave

written materials without opening the door.

- * Do not allow a stranger into your home. If someone says they need help, offer to call assistance for him or her without opening the door.
- * Tell all callers who want information, want to sell you something, or are asking for a donation, to mail their request and you will review it.
- * Be cautious of "1-800" numbers which seem to offer incredible deals. Not all "800" numbers are toll free. Some are used as a tool by scam artists to lure potential victims.

10. Consulting Local Police

- * Find out about the local crime picture. Ask about specific local problems, what the police are doing, and what you can do. Arrange a meeting at which your local law enforcement officer speaks to you and your neighbors about crime prevention.

AG HARSHBARGER PRESENTS VANS TO FIVE LOCAL COUNCILS ON AGING

In October of 1994, the Attorney General presented five vans to Merrimac, Maynard, Paxton, Sandwich and Truro Councils on Aging. Funding for the vans came from a settlement last November with Visone Motors of Saugus for violation of the Consumer Protection Act. The settlement earmarked \$180,000 for new vans to be donated to the Massachusetts Council on Aging. Vans were also presented to six other local councils in the spring of 1994.

AG HARSHBARGER RECEIVES ASSOCIATION OF COUNCIL ON AGING & SENIOR CENTER DIRECTORS ANNUAL AWARD

Attorney General Scott Harshbarger received the Massachusetts Association of Council on Aging & Senior Center Directors Annual Vision, Action and Leadership Award on October 20, 1994. Harshbarger received the award for his efforts on behalf of the state's Council on Aging and Older Americans.

For your convenience, this newsletter is now available in alternative formats for persons with disabilities. To request your copy, please check where applicable and mail to the following address, or call:

(617) 727-2200 ext. 2674

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_____ Audio Tape

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ELDER CASES:

PATIENT ABUSE:

Framingham Nurse's Aid Convicted for Slapping Resident

A nurse's aide, employed by a Framingham long term care facility, was found guilty last February of patient abuse. Investigators stated she slapped a female resident of the St. Patrick Manor across the face.

The nurse's aide was terminated for her actions following the report of the incident by a co-worker. The defendant was sentenced to six months probation. St. Patrick Manor fully cooperated with the MFCU investigation.

North Shore Nursing Home Aide Arraigned on Charges for Locking Patient in His Room

A Lynn woman was arraigned last January for alleged patient abuse of a resident at the Mediplex of North Shore in Lynn.

The defendant allegedly placed the resident in his room and tied the door shut. Due to a closed head injury, the patient was unable to call for assistance or exit the room on his own. Mediplex has terminated the aide's employment and has fully cooperated with the MFCU investigation.

Lawrence Woman Arraigned on Patient Abuse Charges for Kicking Resident

Last October, a nurse's aide at the Prescott Nursing Home in Lawrence, was arraigned on one count of assault and battery and one count of patient abuse.

The defendant allegedly kicked an 86-year-old male in the ankle while working at the nursing home. She was fired following the report of the incident by co-workers. Prescott Nursing Home cooperated fully in the MFCU investigation.

THEFT CASES:

Fairhaven Nursing Home Bookkeeper Guilty of Theft of Patient Trust Funds

Last January, a Somerset woman pled guilty to charges that she stole \$75,000 from the trust funds of residents at the Nichols House Nursing Home.

According to MFCU investigators, the former bookkeeper and office manager at Nichols withdrew funds from residents' trust accounts using local automated teller machines. She then altered the monthly bank account statements to conceal the fraud.

The defendant was sentenced to one year at the Bristol County House of Correction, 90 days to serve, and three years probation.

(Theft Cases Continued...)

Wakefield Funeral Home Owner Arrested for Theft of Funeral Money

The owner of the Morrison Funeral Home in Wakefield was arrested in October for allegedly stealing money entrusted to him by an elderly woman planning her burial.

The case may involve additional victims and possibly as much as several hundreds of thousands of dollars in stolen money converted from burial accounts to the owner for his personal use.

The funeral home closed in July because of financial difficulties. At that time the defendant moved out of his residence at the funeral home and left no information as to his whereabouts. Upon locating him, an arrest was made. State investigators are continuing to review records and interview witnesses.

Six Indicted For Theft of \$79,000 From Roxbury Nursing Home Resident

Six individuals were indicted for their alleged involvement in a scheme that stole \$79,000 from an 82-year-old man residing at the Park Dale Rest Home in Roxbury.

According to MFCU investigators, two of the individuals allegedly obtained blank checks belonging to the residents while they were employed there. All the defendants then allegedly wrote or caused to be written checks to themselves and others,

without the knowledge or permission of the victim.

Relative Indicted for Stealing from 92 year-old Man

Last month, a Revere man was indicted on charges he allegedly stole thousands of dollars and a car valued at \$1,200 from his distant cousin, a 92 year-old man.

The defendant allegedly persuaded the man to take out a series of mortgages on his Chelsea home which totalled \$42,500. Instead of applying all of the money to the mortgages, the defendant allegedly pocketed some of the money himself, causing the victim to default on the mortgages. The victim nearly lost his home as a result of foreclosure proceedings arising from the mortgages.

Additionally, the defendant also allegedly tricked the victim into believing his car needed to be junked, then sold the car for a profit and pocketed the money.

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ATM CARDS: Convenience and Caution

The use of Automated Teller Machine (ATM) cards have made the daily tasks of shopping, banking, and even putting gas in your car easier than ever.

Using an ATM card is as easy as sliding the card into an automated teller machine, and entering a Personal Identification Number (PIN) - chosen at the time you receive the card - to access your account. Yet, with the ease of ATM transactions comes increased concerns for personal and financial security.

Listed below are many of the benefits of using an ATM card, as well as important information on how to keep yourself and your card secure from theft or abuse.

Benefits:

- Convenience:
- ♦ Eliminates the need to carry cash for many shopping expenditures
 - ♦ Allows you to withdraw cash, make deposits, transfer funds, or check balance information without standing in line at the bank
 - ♦ Simplifies record keeping - all transactions made with the card are listed on your monthly statement

How To Protect Yourself:

- ♦ When signing up for a card, inquire about any transaction fees associated with the card's use
- ♦ Remember to record transaction amount, date, and any fees in your check book
- ♦ Select a PIN that's easy to remember but not so easy someone else can figure it out
- ♦ Don't write your PIN near or on your card
- ♦ Report a missing or stolen card immediately to your bank
- ♦ Protect your personal safety by using ATM's in well-lit or indoor locations

MEDI-GAP UPDATE

There are now a number of new Medi-gap products in the market as the result of a major reform law which was enacted last year. New products introduced include those managed by HMOs which offer low cost or no cost premiums, and options for prescription drug benefits for those who want them.

If you have recently become eligible for medicare, you may join any plan on the market at any time (within six months of your 65th birthday). If you already belong to a plan but would like to change to a new one, you may do so only during open enrollment periods (February - March each year). For a complete list of Medi-gap products available, please call:

Massachusetts Division of Insurance: (617) 521-7777

A.G.'s Regulated Industries Division: (617) 727-2200 x 3301.

The Attorney General has been active in hearings held by the Division of Insurance (DOI) contesting the high rates of some carriers. Results include:

Bankers Life and Casualty Company

The Attorney General has entered into an agreement with Bankers Life and Casualty Company whereby they have agreed to substantially lower both their proposed premium increases and requested premiums for new policies. In addition, the agreement also prohibits Bankers Life from offering larger commissions to their agents who enroll younger Medicare beneficiaries versus older enrollees, who usually have higher health care costs.

Blue Cross / Blue Shield

DOI has agreed that Blue Cross / Blue Shield's requested increase should not be approved, offering a 4% increase instead of the 20% sought. Blue Cross / Blue Shield has appealed that decision to the state Supreme Judicial Court. In addition, Blue Cross is also seeking to deregulate Medex products, claiming a competitive market would be more cost effective for everyone than the current state regulated system.

The Attorney General's office will continue to intervene on behalf of consumers in rate approval proceedings held by the DOI to seek to ensure that Medi-gap premiums are as affordable as possible.

AN ACT TO FURTHER PROTECT ELDER AND DISABLED PERSONS

Filed this spring, the bill will, if passed, allow for greater protection as follows:

The bill would create the crime of criminal neglect for any neglect of an elder, child, or disabled person which results in serious bodily injury.

Additionally, the bill would create the crime of aggravated assault when an assault and battery results in serious bodily injury or is committed upon an elder, a disabled person, or a child.

Finally, the bill would allow those with severe physical hardships (physically infirm) to obtain temporary restraining orders by phone in the same manner one does when the court is closed for business. Moreover, the bill authorizes the court to go to the victim for the subsequent adversarial hearing if the victim is physically unable to go to court.

Attorney General Harshbarger supports this legislation in an effort to ensure that no victims are discouraged or impeded from seeking protection because of their physical limitations.

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